



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,605	03/30/2004	Gunther Schiller	SCHILLER - 1	4379

25889 7590 11/16/2006

WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

EXAMINER

DANIELS, MATTHEW J

ART UNIT	PAPER NUMBER
----------	--------------

1732

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,605

Applicant(s)

SCHILLER, GUNTHER

Examiner

Matthew J. Daniels

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

1. The rejection of Claim 15 set forth previously under the judicially created doctrine of obviousness-type double patenting is withdrawn in view of the terminal disclaimer filed 25 August 2006.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 17, 19, 20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. **As to Claim 17**, the claim recites that the tools are mounted on the same shaft and that the first and second mixtures are applied at essentially the same time. This limitation contradicts independent Claim 15 which recites that the first tool is exchanged for the second tool. There can be no exchange if the tools are simultaneously mounted. **As to Claims 19 and 20**, the limitations drawn to a second stand are indefinite because the mold is removed from the first stand when the concrete pipe is removed in the independent claim. These claims require the mold to be placed in a second stand. Thus, it is not removed from the first stand.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (USPN 4957424) in view of Hume (USPN 1768451) and Lewis (USPN 2305017). **As to Claim 15,**

Lewis teaches a method for the production of a multi-layer concrete pipe, comprising the steps:

pivoting a mold mantle, which stands essentially vertically on a turntable, into a first stand (Fig. 1); filling the mold mantle with a first concrete mixture by means of a first charging system (Fig. 1, item 10);

distributing and compacting the concrete mixture in the mold mantle by means of a rotating and vertically displaceable first compacting tool (Fig. 2, Item 38);

pivoting the mold mantle, which stands essentially vertically on the turntable, out of the first stand and removing a concrete pipe formed from the concrete mixture from the mold (Fig. 1, Item 23).

Mitchell is silent to the other limitations drawn to the second concrete mixture and the changing of tools. However, these aspects would have been prima facie obvious for the following reasons:

Lewis teaches application of a second concrete mixture, which is an acid-resistant concrete mixture (Page 1, right column, lines 17-32). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to use a second charging system in order to apply the second concrete mixture of Lewis.

Art Unit: 1732

Hume teaches that a tool similar to that provided by Mitchell may be used for lining pipes (Page 1, left column, lines 1-7). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to provide a second tool having a smaller diameter and substantially the same as Mitchell's first tool in order to provide Lewis' lining to the interior of a cementitious pipe. Hume additionally teaches that the distributing core may be detachably connected to the rod, which the Examiner interprets to be a quick-connect. Both Mitchell and Hume provide the distributing elements in the stand, and in order to provide both a pipe and a lining to the pipe, it would have been prima facie obvious to interchangeably use two tools and Hume's quick connect in order to provide a distributing tool and a lining tool with a smaller diameter.

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the methods of Hume and Lewis into that of Mitchell because doing so would provide a composition having improved resistance to wear and moisture propagation to the inner surface of the pipe and a rapid method for exchanging tools to provide the coating to the inner surface.

4. **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (USPN 4957424) in view of Hume (USPN 1768451) and Lewis (USPN 2305017), and further in view of Kern (USPN 5051223). Mitchell, Hume, and Lewis teach the subject matter of Claim 15 above under 35 USC 103(a). Note the rejection of this claim above under 35 USC 112, second paragraph. **As to Claim 17**, Mitchell and the other cited references are silent to the claimed configuration. However, Kern teaches applying a first concrete (Fig. 1, dotted portion) and

Art Unit: 1732

second mixture (See Fig. 1, Items 10, 12, 11, and 13) at essentially the same time from first and second charging systems (inherent in Kern's method), the second being applied through the shaft on which the compacting tools are mounted (See Fig. 1, Items 10, 12, 11, and 13). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Kern into that of Mitchell in order to save time by avoiding multiple passes for finishing and subsequent sealing.

5. **Claims 19 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (USPN 4957424) in view of Hume (USPN 1768451) and Lewis (USPN 2305017), and further in view of Christian (USPN 4197074). As to Claims 19 and 20, Mitchell appears to be silent to the claimed pivoting and second stand. However, pivoting and the use of multiple stations and stands is conventional and is taught by Christian (Fig. 1). The curing time of the concrete of Mitchell would be substantially longer than the time required to apply the second coating of Lewis. It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Christian into that of Mitchell in order to save space by pivoting and the provision of additional stands in order to perform additional operations such without removing the formed pipe.

Response to Arguments

6. Applicant's arguments filed 25 August 2006 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

}

Art Unit: 1732

a) There is no hint in Ottmann to omit the transport steps and use a second layer consisting of a different concrete mixture.

7. These arguments are not persuasive for the following reasons:

a) The revised rejection addresses the composition and the other amendments to Claim 15. The Examiner asserts that the claim amendments to Claim 15 appear to select a particular embodiment, and that Claims 17, 19, and 20 appear to represent other embodiments which may be contradictory to the subject matter of Claim 15. In particular, Claim 17 appears to contradict the independent claim, and it is unclear what steps are occurring in Claims 19 and 20.

Additional explanation may be helpful to clarify the scope of Claims 19 and 20.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450.

The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 11/11/06

MJD


CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER

11/13/06